

STATE OF MICHIGAN
COURT OF APPEALS

PEOPLE OF THE STATE OF MICHIGAN,

Plaintiff-Appellee,

v

RICKY LAWAN BROOKS,

Defendant-Appellant.

UNPUBLISHED

March 30, 1999

No. 197493

Muskegon Circuit Court

LC No. 94-036665 FC

Before: O'Connell, P.J., and Jansen and Collins, JJ.

MEMORANDUM.

Defendant appeals as of right from his adult sentence of fifteen to seventy-five years for his plea-based conviction of second-degree murder, MCL 750.317; MSA 28.549. We affirm. This appeal is being decided without oral argument pursuant to MCR 7.214(E).

Defendant shot and killed a customer during a narcotics transaction. He was fifteen years old at the time the incident occurred. Defendant pleaded guilty to second-degree murder in exchange for dismissal of charges of first-degree murder and felony-firearm. The court sentenced defendant as an adult to fifteen to seventy-five years in prison, with credit for 194 days.

When determining whether to sentence a juvenile offender as an adult, the court must consider: (1) the juvenile's prior record and character, physical and mental maturity, and pattern of living; (2) the seriousness and circumstances of the offense; (3) whether the offense is part of a repetitive pattern which would lead to a determination that the juvenile is not amenable to treatment, or that despite the juvenile's potential for treatment, the nature of his behavior is likely to disrupt the rehabilitation of other juveniles; (4) whether, despite the juvenile's potential for treatment, the nature of the juvenile's behavior is likely to render him dangerous to the public if released at age twenty-one; (5) whether the juvenile is more likely to be rehabilitated by the services and facilities in adult programs and procedures than in juvenile programs and procedures; and (6) what is in the best interests of the public welfare and the protection of the public security. MCL 769.1(3); MSA 28.1072(3); MCR 6.931(E)(3). We review the trial court's findings of fact for clear error, and the decision to sentence as an adult for an abuse of discretion. *People v Cheeks*, 216 Mich App 470, 477; 549 NW2d 584 (1996).

Defendant argues that the trial court abused its discretion by sentencing him as an adult. We disagree. The evidence showed that defendant's pattern of living was not structured, and that he had little family support. He was in good physical health and had no history of mental illness. While his prior record was minimal, he committed a brutal offense consisting of the calculated killing of another person during a narcotics transaction. The selling of drugs and the use of the gun were factors the lower court could properly rely upon in finding that defendant posed a public safety risk. Although the lower court considered the Glen Oaks program, it concluded that it would not be suited for defendant's rehabilitative needs. Furthermore, his disobedient behavior in the juvenile center was likely to disrupt the rehabilitation of others. The evaluations performed for the dispositional hearing found that defendant would continue to be a public safety risk, and recommended that defendant be sentenced as an adult. The court's imposition of an adult sentence did not constitute an abuse of discretion. *Cheeks, supra*.

Affirmed.

/s/ Peter D. O'Connell

/s/ Kathleen Jansen

/s/ Jeffrey G. Collins